

REMARKS

This is in response to the Office Action of October 14, 2009. With this amendment, claim 7 is amended, and all pending claims 1-3, 5, 7 and 9-12 and 15 are presented for reconsideration and favorable action.

In the Office Action, a minor typographical error in claim 7 was noted. That claim is amended and the objection may be withdrawn.

Applicant remains of the opinion that the cited document US 6,290,727 (Otto) does **not** comprise **four portions**, but rather three portions as discussed below:

1.1 Present invention

The structural features of amended independent claim 1 differ from the structure of the cited document US 6,290,727 in that the **rim surface** of the present invention comprises at least **four** portion:

- (i) one elevated portion 30;
- (ii) a non-elevated portion 40; and
- (iii, iv) transitional areas 32 therebetween (see illustration below on the basis of Fig. 3 of the present invention).

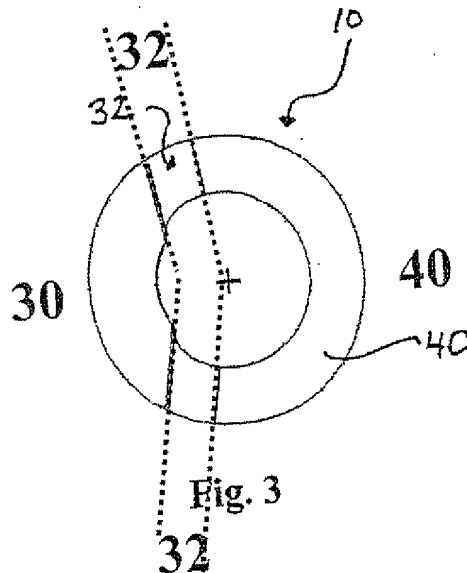


Illustration 1: Fig. 3 of the present invention

Starting from the former wording of pending claim 1, it is already clear that the at least one elevated portion comprises at least one transitional area **at each end**, i.e. there are two ends with two corresponding transitional areas.

In order to emphasize that the rim portion comprises at least **four** portions, the wording of claim 1 was previously amended in that the connection of the transitional area to the elevated portion is set in plural, i.e. there are two transitional areas.

Furthermore, it should be noted that at least portions of the two transitional areas 32 – which are part of the rim portion - are **concave** for allowing an increased range of motion of the stem component relative to the acetabular liner.

1.2 US 6,290,727 (D1)

Contrary to the present invention, cited document US 6,290,727 (D1) only discloses three different portions **14 (first segment or first sector 5)**, **16 (second segment or second sector 6)** and **24 (third segment or third sector 7)** (see Fig. 2 of D1 as illustrated below and D1, column 3, line 60 to column 2, line 18 and column 4, line 25):

"The third segment 21 defines a third sector angle 24 of about 115° between the first segment 14 and the second segment 16." (D1, column 4, lines 16-18)

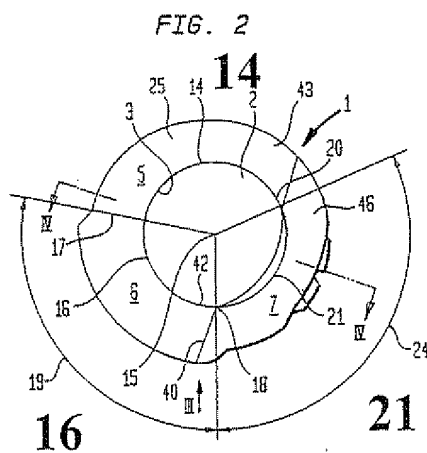


Illustration 2: Fig. 2 of D1

Thus, the subject-matter of independent claim 1 is at least for this reasons novel and inventive over the cited document D1.

1.2.1 Furthermore, it appears that the Examiner ignores the feature that the **two** transitional **areas** connecting a **top surface** of the elevated portion and the non-elevated portion of the rim surface are **concave**. In particular, claim 1 as previously amended requires that at least parts of the two transitional areas of the rim portion are **concave**.

In contrast thereto, D1 merely discloses a concave receiving surface 2 which corresponds to the cavity 20 of the present invention. Moreover, it appears that Otto merely discloses an ascent 44 which appears to be a **linear ascent** since the ascending angle 45 ranges between 2° and 7° (see, e.g. Figure 3 and column 4, lines 39-44).

1.2.2 Moreover, there are considerable differences in the design of the acetabular liner of the present invention and those of D1. In particular, the design of D1 starts from a snap-in pan wherein the rim has been chamfered in one portion and elevated in another portion.

This arrangement is disadvantageously with regard to the range of motion (limitations in the range of motion and snap-in effects).

In contrast, the present invention starts from a standard design of a hemispherical acetabulum pan, the rim of which has been elevated comprising the specific transitional areas. Due to the specific design of the transitional areas (concave) and the elevated rim, any limitations in the range of motion at physiological movements are minimized.

1.2.3 Furthermore, the Examiner's interpretation how the cup of Otto may be divided into four regions, in particular, the drawing of the Examiner, is unclear and appears to be based on hindsight.

1.2.4 Finally, we noted that the Examiner interprets two transitional areas on either side of peak 40 (see, e.g., Figure 2 and Figure 3 of Otto). In other words, it appears that the Examiner interprets the peak 40 to be the elevated portion according to present independent claim 1.

In order to distinguish from such an interpretation, Applicant would like to emphasize that the elevated portion according to the present invention is not only a peak but at least a (surface) portion of a rim surface, wherein the portion of the elevated portion is approximately 1/3 or less of the circumferential rim surface as disclosed at page 7, lines 25 and 26 of the description.

Accordingly, it appears that the subject-matter of amended independent claim 1 is not only novel but also based on an inventive step vis-à-vis D1.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue, or comment, including the Office Action's characterizations of the art, does not signify agreement with or concession of that rejection, issue, or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for

patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment or cancellation of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment or cancellation. Applicant reserves the right to prosecute the rejection claims in further prosecution of this or related applications.

In view of the above amendments and remarks, it is believed that the present application is in condition for allowance. Consideration and favorable action are respectfully requested.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

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